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5 UNITED STATES  
6 ENVIRONMENTAL PROTECTION AGENCY  
7 REGION 9

8 In the matter of ) ORDER  
9 UNIDYNAMICS PHOENIX, INC ) Docket No.89-04  
10 Respondent. )  
11 Proceeding Under Section )  
12 106(a) of the Comprehensive )  
13 Environmental Response, )  
14 Compensation and Liability )  
15 Act of 1980 (42 U.S.C. § 9606(a)) )  
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JURISDICTION

29 The following Order is issued on this date to UniDynamics  
30 Phoenix, Inc, Phoenix, Arizona (hereinafter referred to as  
31 Respondent), pursuant to the authority vested in the President of  
32 the United States by § 106(a) of the Comprehensive Environmental  
33 Response, Compensation, and Liability Act of 1980 (CERCLA), 42  
34 U.S.C. § 9601 et seq., delegated to the Administrator of the  
35 United States Environmental Protection Agency (EPA) by Executive  
36 Order Number 12316 (August 20, 1981, 46 FR 42237), and  
37 redelegated to the Director, Hazardous Waste Management Division,  
38 EPA, Region 9. Notice of the issuance of this Order has been  
39 given to the State of Arizona.

## FINDING OF FACTS

1 for solvents. In this report, Respondent admitted releases of  
2 hazardous substances by stating that "between the beginning of  
3 its operation [at the facility] in 1963 and the cessation of on-  
4 site disposal in 1978, UniDynamics generated an estimated 5,700  
5 gallons of waste TCE. Calculations establish that due to  
6 evaporation, approximately 3,000 gallons of this waste TCE ac-  
7 tually reached the subsurface soil...near the four dry wells  
8 which served as the disposal site for UniDynamics waste TCE."

9 7. Respondent has conducted soil sampling activities on-  
10 site. The highest levels of soil contamination were detected  
11 near the four dry wells that received waste solvents. These  
12 results were obtained from testing done in May, 1984. TCE levels  
13 in the soils near these dry wells reached as high as 385,200  
14 parts per billion (ppb).

15 8. Respondent has installed a number of groundwater  
16 monitoring wells at and adjacent to the site. Respondent has  
17 reported TCE levels as high as 350,000 ppb in wells monitoring  
18 the shallow aquifer underlying the site, and 450 ppb TCE in an  
19 off-site shallow aquifer well downgradient from Respondent's  
20 facility. Respondent has reported TCE levels as high as 200 ppb  
21 from a shallow aquifer well located within 1000 feet of a deeper  
22 aquifer well providing drinking water to the City of Goodyear  
23 (City of Goodyear Well No. 10). City of Goodyear Well No. 10 is  
24 the sole source of drinking water to 300 residents. Respondent  
25 has reported levels of TCE as high as 6.5 ppb from the one on-  
26 site well it monitors from the deeper aquifer used for drinking  
27 water.

1           9. The maximum contaminant level for TCE established pur-  
2     suant to the Safe Drinking Water Act, 42 U.S.C. § 300f et seq. is  
3     5 ppb.

4           10. Based on the sampling data disclosed by Respondent, and  
5     Respondent's characterization of the hydrogeology in and near the  
6     facility, EPA concludes that TCE released by Respondent migrates  
7     from the soil into the shallow aquifer and then into the deeper  
8     aquifer.

9           11. Since August, 1988, Respondent has been preparing a  
10    final RI/FS report pursuant to an informal agreement with EPA.

11          12. On November 23, 1988, Respondent indicated that it  
12    would attempt to submit its final RI/FS report by January 6,  
13    1989, and requested until January 21, 1989 to complete its sub-  
14    mittal.

15          13. As of February 6, 1989, Respondent has not submitted  
16    its RI/FS report to EPA.

### 17                   III. Conclusions of Law

18          1. Respondent is a "person" as defined in Section 101(21)  
19    of CERCLA, 42 U.S.C. § 9601(21).

20          2. Respondent's facility is a "facility" as defined in Sec-  
21    tion 109(9) of CERCLA, 42 U.S.C. § 9601(9).

22          3. TCE is a "hazardous substance" as defined in Section  
23    101(14) of CERCLA, 42 U.S.C. § 9601(14).

24          4. The disposal of hazardous substances by UniDynamics in  
25    dry wells and subsurface soils and the continued migration of  
26    those substances in the groundwater and to the groundwater from  
27    contaminated soils constitute a "release" or "threatened release"

1 of hazardous substances into the environment as defined in Sec-  
2 tion 101(22) of CERCLA, 42 U.S.C. §9601(22).

3 5. Respondent is liable under Section 107(a) of CERCLA, 42  
4 U.S.C. § 9607(a).

5 DETERMINATION

6 Based upon the foregoing Findings of Fact and Conclusions of  
7 Law, the Director, Toxics and Waste Management Division, EPA,  
8 Region 9 has made the following determinations:

9 1. The release or threatened release of hazardous sub-  
10 stances and pollutants or contaminants from the facility may  
11 present an imminent and substantial endangerment to the public  
12 health or welfare or the environment. This determination is em-  
13 bodied in Appendix A attached hereto.

14 2. In order to prevent or mitigate a significant risk of  
15 harm to human health and the environment, response action must be  
16 taken to provide EPA with information needed so that EPA may  
17 determine what remedial action is appropriate to address the  
18 releases and threatened releases.

19 3. The response actions required by this Order are not in-  
20 consistent with the National Contingency Plan, 40 C.F.R. Part  
21 300.

22 ORDER

23 Based upon the foregoing Findings of Fact, Conclusions of  
24 Law, and Determinations, Respondent is hereby ordered and  
25 directed, pursuant to § 106(a) of CERCLA, 42 U.S.C. § 9606(a), to  
26 submit an RI/FS report for their facility no later than March 1,  
27 1989.

1        This report shall be consistent with all applicable require-  
2        ments of the NCP and shall be conducted in accordance with EPA  
3        RI/FS guidances ("Guidance on Remedial Investigations Under  
4        CERCLA," June, 1985; and Guidance on Feasibility Studies Under  
5        CERCLA," June, 1985); to the extent applicable as determined by  
6        EPA. The RI/FS report shall contain at least the following in-  
7        formation:

8            1. An overview of the site and remedial alternatives that  
9        survive the screening process. This overview shall be presented  
10       as an Executive Summary;

11           2. An introduction to the site that covers such topics as  
12       demographics and land use; groundwater hydrology, surface water,  
13       and disposal practices;

14           3. Presentation of a soils investigations in conjunction  
15       with source areas and conclusions;

16           4. Presentation of a groundwater investigation and conclu-  
17       sions. All raw data, logs, and detailed data for groundwater and  
18       soils shall be placed in appendices;

19           5. A risk assessment that addresses both public health and  
20       environmental concerns;

21           6. Identification and screening of remedial alternatives.  
22       The following chapter headings shall be used:

23            a. Remedial response objectives, general response ac-  
24       tions, and technology screening;

25            b. Identification and screening of remedial action al-  
26       ternatives;

27            c. Evaluation of soils alternatives;

- 1 d. Evaluation of groundwater alternatives;
- 2 e. Evaluation of water treatment alternatives;
- 3 f. Evaluation of water end use alternatives.

4 All tasks required by this Order shall be subject to the  
5 following provisions:

6 1. It is the responsibility of Respondent to obtain access  
7 to and use of any off-site areas. Respondent shall be respon-  
8 sible for any claims arising from the activities conducted by  
9 Respondent or its representatives or consultants on third-party  
10 property in connection with this Order in accordance with CERCLA  
11 and the laws of a State of Arizona. Respondent shall provide ac-  
12 cess to the facility for EPA employees, contractors, or consult-  
13 ants at all reasonable times and will permit such persons to be  
14 present and move freely in the area where any work is being con-  
15 ducted pursuant to this Order.

16 2. Respondent shall provide EPA with copies of all charts,  
17 maps, letters, memoranda, invoices, shipping manifests and other  
18 records and documents relevant to the performance of work under  
19 this Order as required to be provided to EPA by RCRA, CERCLA, or  
20 any other applicable law.

21 3. Notwithstanding compliance with the terms of this Or-  
22 der, the Respondent is not released from liability, if any, for  
23 any actions beyond the terms of this Order taken by EPA respect-  
24 ing the facility. EPA reserves the right to take any enforcement  
25 action pursuant to CERCLA and/or any available legal authority,  
26 including the right to costs and damages.

27 4. EPA expressly reserves all rights and defenses, includ-  
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1 ing EPA's right both to disapprove of work performed by the  
2 Respondent and to require that the Respondent perform the tasks  
3 required by this Order. In the event that the Respondent  
4 declines to perform such tasks, EPA reserves the right to under-  
5 take them. EPA reserves the right to undertake removal actions  
6 and remedial actions at any time. EPA also reserves the right to  
7 seek reimbursement from the Respondent thereafter for such costs  
8 incurred by the United States.

9 5. All activities undertaken by Respondent pursuant to this  
10 Order shall be undertaken in accordance with the requirements of  
11 all applicable state and federal laws and regulations. EPA has  
12 determined that the obligations and procedures authorized under  
13 this Order are consistent with its authority under applicable  
14 law.

15 6. Pursuant to 42 U.S.C. § 9621(e), no federal, state, or  
16 local permits are necessary for the work onsite conducted pur-  
17 suant to § 106 of CERCLA, within the boundaries as defined by the  
18 NPL, including actions taken pursuant to this Order.

19 7. This Order shall apply to and be binding upon the  
20 Respondent its agents, successors, and assigns and upon all per-  
21 sons, contractors, and consultants acting under or for the  
22 Respondent. No change in ownership or corporate or partnership  
23 status relating to the facility shall in any way alter the status  
24 of the Respondent or in any way alter the Respondent's respon-  
25 sibility under this Order. The Respondent shall remain the  
26 Respondent under this Order and shall be responsible for carrying  
27 out all activities required of the Respondent under this Order.

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1           8. EPA has notified the State of Arizona pursuant to the  
2 requirements of Section 106(a) of CERCLA.  
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4                   EFFECTIVE DATE -- OPPORTUNITY TO CONFER

5           Except as otherwise provided below, this Order is effective  
6 upon the date of approval by EPA.

7           Under the provisions of CERCLA, Respondent may request a  
8 conference to be held within seven (7) calendar days after  
9 receipt of this Order to discuss this Order, its applicability,  
10 the correctness of any factual determinations upon which the Or-  
11 der is based, the appropriateness of any action which Respondent  
12 is ordered hereby to take, and any other relevant and material  
13 issue. The conference will be recorded by stenographer or other  
14 recording mechanism. If Respondent requests a conference, this  
15 Order shall not become effective until the expiration of the said  
16 seven-day period.

17           At any conference held pursuant to Respondent's request,  
18 Respondent may appear in person and by attorney or other repre-  
19 sentatives for the purpose of presenting any objections, defenses  
20 or contentions which Respondent may have regarding this Order.

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22                   PENALTIES FOR NON-COMPLIANCE

23           Willful violation or failure or refusal to comply with this  
24 Order, or any portion hereof, may subject Respondent to a civil  
25 penalty of not more than \$25,000.00 for each day in which viola-  
26 tion occurs or such failure to comply continues in accordance  
27 with this Order, or any portion hereof. In addition, if such  
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1 violation is without sufficient cause, it may also subject  
2 Respondent to liability for punitive damages in the amount of  
3 three times the total of all costs incurred by the government as  
4 a result of Respondent's failure to take proper action in accor-  
5 dance with § 107(c)(3) of CERCLA.

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7 It is so ordered on this 6 day of Feb., 1989.

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10 UNITED STATES ENVIRONMENTAL  
11 PROTECTION AGENCY

12 By: 

13 Jeff Zelikson, Director  
14 Hazardous Waste Management  
15 Division

16 Contact Person:

17 Jeff Rosenbloom (T-4-2)  
18 Environmental Protection Agency  
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